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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2010-82

13 **ALMA BATISTA**
14 **699 East Naples Street**
Chula Vista, CA 91911

A C C U S A T I O N

15 **Registered Nurse License No. 480782**
16 **Public Health Nurse Certificate No. 58634**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about August 31, 1992, the Board of Registered Nursing issued Registered
24 Nurse License Number 480782 to Alma Batista (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 October 31, 2009, unless renewed. The Board of Registered Nursing also issued Public Health
27 Nurse Certification Number 58634 to Respondent on or about February 9, 1998. Said
28 certification will expire on October 31, 2009, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

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(a) Unprofessional conduct, which includes, but is not limited to, the following:

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(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

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1 (5) If applicable, evidence of expungement proceedings pursuant to
Section 1203.4 of the Penal Code.

2 (6) Evidence, if any, of rehabilitation submitted by the licensee.

3 **COST RECOVERY**

4 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licensee found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(December 18, 2008 Criminal Conviction for False Imprisonment on May 27, 2008)**

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11 12. Respondent has subjected her license to disciplinary action under sections 490 and
12 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
13 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
14 follows:

15 a. On or about December 18, 2008, in a criminal proceeding entitled *People*
16 *of the State of California v. Alma Batista*, in San Diego County Superior Court, case number
17 CS219875, Respondent was convicted on her plea of guilty of violating Penal Code sections
18 236/237, subdivision (a), false imprisonment, a felony. Said plea was an amended count
19 negotiated from the original charges of kidnapping for ransom and conspiracy. Sentencing has
20 been continued to August 18, 2009.

21 b. The facts that led to the conviction were that on or about the evening of
22 May 27, 2008, officers from the Chula Vista Police Department were dispatched to a residence
23 regarding a possible battery. The reporting party stated that she had received a call from family
24 members in Tijuana that another family member ("victim") was being held against her will at a
25 Chula Vista residence, so she called the police.

26 c. Upon arrival at the residence, police officers contacted Respondent, her
27 mother, and Respondent's boyfriend. They initially denied knowing anything about the incident,
28 but Respondent's mother finally admitted that she had duct-taped and slapped the victim. She

1 claimed the victim had stolen money and jewelry from her. During an interview with the victim,
2 she told the police that she had worked for the family for 10 years and would never steal from
3 them. Earlier in the day, while cleaning the living room, the victim was approached by an
4 unknown white male (who was later identified and tried as a co-conspirator). The male and
5 Respondent's mother began accusing her of stealing jewelry and money from the home. The
6 victim's wrists and mouth were duct-taped; Respondent's mother slapped the victim's face.
7 Respondent left the residence to pick up her children and returned shortly thereafter. Respondent
8 called the victim's family in Tijuana and told them they were holding the victim because of the
9 alleged thefts. The unknown white male hit the victim in the head with the telephone receiver
10 when she couldn't write her address. The victim stated her address and Respondent's mother
11 wrote it down. Respondent's mother then kicked and slapped the victim several times. The
12 unknown white male took two rings from the victim's fingers, her earrings, and the SIM card
13 from her cell phone. Respondent's mother took the victim's USA visa card, a credit card, and all
14 of the victim's cash except for five dollars. The victim was crying and shaking during the police
15 interview. She was worried that because they had her family's address, Respondent and her co-
16 conspirators were going to hurt her family.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct)**

19 13. Respondent has subjected her license to disciplinary action under section 2761,
20 subdivision (a) of the Code in that on or about May 27, 2008, Respondent was a willing
21 participant in an act resulting in assaultive and abusive conduct on a victim to the extent that the
22 victim was in fear for the lives of her family members, as described in paragraph 12, above. In
23 Respondent's December 13, 2008 plea agreement, Respondent stated that she "aided and abetted
24 the false imprisonment of another by menace and fear." Such egregious conduct is substantially
25 related to the qualifications, functions, and duties of a registered nurse pursuant to California
26 Code of Regulations, title 16, section 1444.

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1 PRAYER

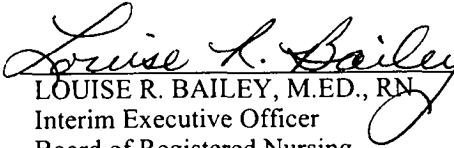
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 480782 and Public Health
5 Nurse Certification Number 58634, issued to Alma Batista;

6 2. Ordering Alma Batista to pay the Board of Registered Nursing the reasonable costs of
7 the investigation and enforcement of this case, pursuant to Business and Professions Code section
8 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

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12 DATED: 8/4/09


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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